

Need for Recognition of Sources and Methods in Privacy Act

This proposed legislation would in part strike the general exemption for CIA record systems.

Under CIA Regulations (32 C.F.R. Part 1901), the CIA has exempted from access by individuals information mainly related to sources and methods in addition to the specific exemptions already in the Act that apply to all agencies including the CIA.

The Chairwoman proposes to strike the CIA exemption and apparently contends that the existing exemption for classified information found in section (k)(1) of the Privacy Act would be sufficient to cover what she considers to be sensitive national security matters.

Information relating to sources and methods is distinct from information classified pursuant to Executive Order 11652. To argue that they are synonymous would lead to a distortion of the principles of the Executive Order. Protection of information relating to sources and methods is the responsibility of the DCI pursuant to 50 U.S.C. 403(d)(3) and 50 U.S.C. 403g. This responsibility has been recognized by the Senate Report and in Recommendation 86. The Report draws a clear distinction between sources and methods and "national secrets." The courts have recognized this responsibility in Phillippi v. Colby (U.S.D.C. D.C., Civil Action No. 75-1265, 1975) and Weissman v. CIA (U.S.D.C. D.C., Civil Action No. 75-75-1583, 1975).

Striking the CIA exemption in the Privacy Act without inserting a provision for protection of information relating to sources and methods would be counter to the DCI's statutory responsibility and would lead to the revelation of information which the courts and the legislative investigatory bodies have recognized must be protected in the national interest.

Should the Subcommittee wish to consider striking the CIA exemption, it is recommended that a new provision be added to section (k) of the Act recognizing appropriate exemption from access for information the disclosure of which would reveal intelligence sources and methods.